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JUN 21 2007

OFFICE OF PETITIONS

In re Application of Hogarth et al. :
Application No. 10/687,109 : Decision on Petition
Filing Date: October 15, 2003 :
Attorney Docket No. 5478-4-1 :
:

This is a decision on the petition under 37 CFR 1.137(a), filed February 21, 2007, to revive the above-identified application. The petition is also being treated under 37 CFR 1.181 (no fee) as a petition to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 is **granted**.

The petition under 37 CFR 1.137(a) is **dismissed as moot**.

A non-final Office action including a requirement for restriction/election mailed May 26, 2006.

The Office action was returned to the USPTO undelivered by the USPS. The outside of the envelope includes a stamp indicating, "UNDELIVERABLE AS ADDRESSED." The address on the Office action was correct and the exact reason the Office action was unable to be delivered is unknown.

A Notice of Abandonment was mailed January 22, 2007.

The application is not abandoned since the Office action was never delivered to petitioner. Therefore, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Since the petition has been granted under 37 CFR 1.181, petitioner's request to have the petition considered under 37 CFR 1.137(a) is dismissed as moot. No petition fee is required for a petition to withdraw holding of abandonment under 37 CFR 1.181. Therefore, the petition fee of \$250 has been credited back to petitioner's deposit account.

Technology Center Art Unit 1631 will be informed of the instant decision. Thereafter, the Technology Center's technical support staff will mail a new copy of the non-final Office action originally mailed May 26, 2007. The time period for responding to the new non-final Office action will be set to run from the mailing date of the new non-final Office action.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.



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